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# David Boyle's fee book

## Abstract

*The surviving fee book of the advocate (and future lord president of the Court of Session), David Boyle, is a rare find and this article explores what it can tell us about his practice as counsel in the early nineteenth century. His career, in Edinburgh and London, saw him being employed by a range of agents and firms in both civil and criminal business. His fee book not only reveals the extent of his professional engagements but also demonstrates the impact of his involvement in politics on his career at the bar.*

The surviving fee book of David Boyle (1772-1853), which along with related material is part of the splendid Murray Collection at the University of Glasgow, covers in two volumes the period 1801-1810.<sup>1</sup> As it reflects the fortunes of an able advocate at a time of institutional change (encompassing the re-organisation of the Court of Session into two divisions in 1808), it is surprising that it has not hitherto attracted notice. The following discussion hopes to address this and to identify what this source can tell us about Boyle's practice at the Scots bar in the first decade of the nineteenth century.

It is useful to begin with a brief discussion of Boyle's career.<sup>2</sup> The son of the Honourable Patrick Boyle of Shewalton, he studied Arts at the University of St Andrews and then read law at the University of Glasgow, entering the class of Professor John Millar in 1789.<sup>3</sup> From that year, some of Boyle's notes survive from Millar's courses on Justinian's *Institutes*, the *Digest*, and his *Lectures on Government*.<sup>4</sup> Boyle was admitted to the Faculty of Advocates on 17 December 1793, having undertaken his private examination on the Digest title *De castrensi peculio* (D.49.17) a few days earlier.<sup>5</sup> Boyle's name, as was not unusual for newly-minted counsel, was quickly added to the list of the Faculty's public examiners.<sup>6</sup>

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<sup>1</sup> The Murray Collection in Glasgow University Library [GUL], Special Collections, contains a range of material belonging to Boyle. This includes the notes he took as a student at the lectures of John Millar in 1790 (referred to in the next footnote) and related material, such as his notes on the *Institutes* of J.G. Heineccius, the textbook used by Millar. Notes on cases by Boyle are also in the collection: GUL, Spec. Coll., MS Murray 342-405.

<sup>2</sup> Brief sketches may be found in R. Thorne, ed., *The History of Parliament: The House of Commons 1780-1820* (London 1986), III, 239; A. Grant and M. Fray, 'Boyle, David, Lord Shewalton (1772-1853)' *Oxford Dictionary of National Biography* (Oxford, 2004).

<sup>3</sup> It was not until the death of his elder brother in 1837 that Boyle succeeded to the family estate. At that point, he changed his judicial title to Lord Shewalton: National Records of Scotland [NRS], Court of Session, Books of Sederunt, CS1/26, fo. 171. Boyle's father, the second son of John, earl of Glasgow, was himself a lord of session (Lord Shewalton) and, from 1757 to 1759, he was rector of the University of Glasgow. Like his father, Boyle was also rector of the University of Glasgow, serving as such from 1815 to 1817, despite having been professionally employed as counsel to advise his cousin, the earl of Glasgow, against the University (Fee book, 6 Feb. 1805). Boyle's maternal grandfather, Alexander Dunlop, was professor of Greek at the University of Glasgow.

<sup>4</sup> Glasgow University Library [GUL], Spec. Coll., MS Murray, 88-90 (Lectures on Government, undated); MS Murray 96-98 (notes from lectures on the *Institutes*, 1789); MS Murray 91-2 (two surviving volumes of notes from the course on the *Pandects*, 1790). On Millar's lectures, see J.W. Cairns, *Enlightenment, Legal Education, and Critique* (Edinburgh, 2015), chapter 7 (esp. pp. 201-215) and chapter 10.

<sup>5</sup> National Records of Scotland [NRS], Court of Session, Books of Sederunt, CS1/18, fo. 9v; A. Stewart and D. Parrat, ed., *The Minute Book of the Faculty of Advocates, 1783-1798* (Edinburgh: Stair Society, 2008), 163 (14 Dec. 1796).

<sup>6</sup> Stewart and Parrat, ed., *Minute Book*, 165. In January 1801 he was appointed, with others including Matthew Ross, Walter Scott, as one of the private examiners for the trial of intrants on Scots Law: Adv. Lib., FR 4, fo. 65.

Boyle was involved in the controversial coup which saw the removal of the Whig Henry Erskine from the office of dean of Faculty in January 1796.<sup>7</sup> He was one of the signatories of letters, circulated at the beginning of December 1795, which called into question Erskine's public conduct in criticising two contentious parliamentary bills dealing with sedition and treason.<sup>8</sup> This was at a time, as Henry Cockburn later noted, when the national anxieties caused by the impact of the French Revolution remained at their height.<sup>9</sup> Erskine's critics questioned the propriety of views he had expressed when he had complained publicly of what he considered to be illiberal and anti-constitutional measures put forward in parliament. They wondered whether, as the figurehead of the bar, the dean should ever 'act the part of a Demagogue' and proposed the lord advocate, Robert Dundas (1758-1819), as a suitable replacement. Dundas was the nephew (and son-in-law) of Henry Dundas, Viscount Melville, and his involvement for the crown in the notorious sedition trials in 1793-4 had underscored his strong Tory credentials.<sup>10</sup> Dundas, having indicated his willingness to stand, was duly elected and the Whig Erskine became the first dean to be deposed from office. This political manoeuvre, led by men strongly sympathetic to the Melvillian interest, would later have its consequence for Boyle when Erskine, appointed lord advocate in March 1806 as part of Grenville's so-called 'Ministry of All the Talents', promptly removed him as an advocate depute.

As the grandson of the earl of Glasgow and, from 1804, son-in-law to Hugh, twelfth earl of Eglinton, Boyle's family and political connections secured him election, in May 1807, as member of parliament for his native Ayrshire. He entered government as solicitor-general for Scotland in the duke of Portland's administration.<sup>11</sup> This did not interrupt his career at the bar, which continued until early in 1811 when he was appointed to the bench in place of the late Lord Cullen.<sup>12</sup> In November of the same year Charles Hope (Lord Granton) replaced Robert Blair as lord president and Boyle was made lord justice clerk, a rapid promotion but one which reflected his stature within the profession and the good impression he had made as a judge.<sup>13</sup> The former dean, Robert Dundas, by then a baron of Exchequer, expressed his utmost confidence in Boyle as the head of the judiciary 'not the less so from the manner in which he has discharged his duty during the short time he has had a seat on the Bench'.<sup>14</sup> When Hope retired, Boyle became the first man to succeed to the united offices of lord president and lord justice-general in 1841 (the offices having been united by statute in 1830), retaining office until he himself retired in 1852.<sup>15</sup>

To mark his retirement, the Faculty of Advocates addressed Boyle in glowing terms, telling him that his judicial administration had 'been marked by a union of qualities the best

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<sup>7</sup> For discussion, see Stewart and Parrat, ed., *Minute Book*, pp. xx-xxv; H. Cockburn, *Memorials of his Time* (Edinburgh: Adam and Charles Black, 1856), 92-94.

<sup>8</sup> Stewart and Parrat, ed., *Minute Book*, 263-9. Boyle apparently did not sign the first letter, but he signed a letter and reply to Erskine on 1 and 2 Dec. 1795. Other signatories included Allan Maconochie, Robert Craigie, Charles Hope and (Professor) David Hume. The originals are in the Advocates Library [Adv. Lib.], Adv. MS. 20.4.19. See also National Library of Scotland [NLS], Melville papers, MS. 351, fo. 17. The bills concerned were The Seditious Assemblies Bill and The Treason Bill.

<sup>9</sup> H. Cockburn, *Memorials of His Time* (Edinburgh, 1856), 45.

<sup>10</sup> A. Wharam, *The Treason Trials, 1794* (Leicester 1992), esp. 48, 137-140.

<sup>11</sup> NRS, Court of Session, books of sederunt, CS1/19 (unpaginated), 12 May 1807. He retained office as solicitor-general for Scotland until his appointment to the bench.

<sup>12</sup> *Ibid.*, CS1/20 (unpaginated), 26 Feb. 1811.

<sup>13</sup> His short speech on taking office is recorded in *The Scots Magazine and Edinburgh Literary Miscellany* (Dec. 1811), 951-2. It is interesting that the Faculty of Advocates Minute Book does not refer to Boyle's promotion to the bench or to his promotion as lord justice clerk, although attention at the latter point was fully focused on the death of Robert Blair: Adv. Lib., Faculty Minute Books, FR 5.

<sup>14</sup> NRS, Papers of the Society of Writers to the Signet, GD495/48/1, Dundas to Lord Adam, 18 Oct. 1811.

<sup>15</sup> NRS, Court of Session, Books of Sederunt, CS1/27, fo. 234; 1 Will. IV, c. 69, s.18.

calculated to maintain the dignity of the Law, to secure the confidence of suitors, and to conciliate the regard of that profession over which you were called on to preside.’<sup>16</sup> In his response, Boyle noted his early rise to the bench and the satisfaction that he had obtained from advocates having ‘from my first entrance on office, such proof of their attention and regard, as for ever to secure from me my warmest wishes for the maintenance of the honor [sic] and character of the Faculty’.<sup>17</sup> Similar addresses were made by the Society of Writers to the Signet (the W.S. Society) and the Society of Solicitors in the Supreme Courts of Scotland (the S.S.C. Society), the latter seeking permission from Boyle to commission a marble bust of him.<sup>18</sup>

### *Boyle’s contemporary career*

Boyle, writing confidentially in 1813 jointly with Charles Hope, shared the belief of the bar that, for over a decade from 1780, it had lacked new members of ‘very superior’ abilities and that those who were admitted during that period were largely ‘second rate’.<sup>19</sup> Boyle himself is the last advocate to be discussed in a well-known sketch of the bar written in 1807, probably in anticipation of the outcome of the general election of that year.<sup>20</sup> The anonymous author, writing for the benefit of the prime minister Lord Grenville, describes fifty-eight advocates in varying amounts of detail, discussing the level of their business at the bar; any offices they held; their political leanings and connections, and any claims to promotion they might have.

Undoubtedly the most eminent practitioner, Robert Blair then the dean of Faculty, heads the list, but this was happenstance because the list was written chronologically by date of admission and he was the oldest practitioner.<sup>21</sup> Nothing should therefore be read into Boyle’s positioning at the end of the discussion, nor should the description of him as being ‘of an ardent & zealous temper with professional acquirements much above mediocrity’ be taken in anything other than a positive light. William Erskine (later Lord Kinneder) was described in similar terms as possessing ‘talents much above mediocrity’; so was Robert Craigie (the future Lord Craigie), a seasoned sheriff who was significantly more experienced than Boyle.

Boyle’s career at the bar developed significantly over the decade covered by the fee book. In 1801, his name appears in the Outer House rolls, relative to Ordinary actions, on only 12 occasions out of 712 entries.<sup>22</sup> As a measure of activity or popularity with instructing agents, this would place him significantly below leading practitioners such as Thomas Walker Baird (42 appearances), John Clerk (36 appearances), Robert Corbet (28 appearances), Adam Gillies (27 appearances) and David Monypenny (24 appearances).<sup>23</sup> However, Francis Jeffrey appeared as often as Boyle did, and men like Baird, ‘a good deal employed, but not in the

<sup>16</sup> Adv. Lib., Faculty of Advocates Minute Books, FR 8, fo. 253. Note also the encomium when he was appointed lord president in 1841: *ibid.*, FR 7, fo. 484.

<sup>17</sup> *Ibid.*, FR 8, fo. 260.

<sup>18</sup> Signet Library, W.S. Society Sederunt Book, vol. 9, fos 556-7; vol 10, fos 4-5; S.S.C. Library, S.S.C. Sederunt Book, vol. 2, fos 353-4.

<sup>19</sup> See J. Finlay, *The Community of the College of Justice: Edinburgh and the Court of Session, 1687-1808* (Edinburgh, 2012), 140.

<sup>20</sup> British Library [BL], Dropmore Papers, Add. MS., 59259, fos 198-207. The MS is undated, but its composition certainly follows David Monypenny’s promotion as sheriff depute of Fife in Feb. 1807 and it pre-dates Boyle’s promotion as solicitor-general for Scotland in May. For Moneyenny’s appointment as sheriff on 7 Feb., see *The Scots Magazine and Edinburgh Literary Miscellany* (Feb. 1807), 156. It is sometimes given as 1806.

<sup>21</sup> Blair succeeded Dundas as dean in 1801, when the latter was appointed Chief Baron of Exchequer.

<sup>22</sup> NRS, Court of Session, Outer House, Roll Books, CS90/1/11.

<sup>23</sup> Clerk (1757-1832), a Whig, was promoted to the bench in 1823 as Lord Eldin; Monypenny (1769-1850) became Lord Pitmilny in 1813; and Gillies (1760-1842), another Whig, was promoted to the bench on 30 Dec. 1811.

highest line - a sensible plodding man of business', and Corbet, 'of very middling talents – without political influence of any sort', were not prospects for promotion.<sup>24</sup>

The advancement of Charles Hope to the bench as lord justice clerk, in 1804, had a significant impact on Boyle's future. Boyle was politically and personally close to Hope and agents who employed Hope may have naturally settled on Boyle as a replacement.<sup>25</sup> Certainly, they liked to employ men to the bar known to be familiar to influential judges and Boyle's personal relationship with the new lord justice clerk can have done him no harm. Bain Whyte W.S., for instance, is known to have employed Hope regularly, though he is recorded in Boyle's fee book on only one occasion.<sup>26</sup> John Graeme W.S., who also employed Hope, appears more often.<sup>27</sup>

In the 1807 memorandum, Boyle was described as 'warmly attached to Lord Melville', a political position which was shared with at least a dozen of the others discussed. He served as an advocate depute under the lord advocates Charles Hope (1763-1851) and James Montgomery (1766-1839), but, as noted earlier, Henry Erskine 'displaced' him in 1806.<sup>28</sup> Boyle's political leanings are reflected in his fee-book, an example being in his professional relationship with Hugh Warrender.<sup>29</sup> Warrender, who was Henry Dundas's law agent (and deputy keeper of the signet), employed Boyle throughout the period covered by the fee-book.<sup>30</sup> Appointed by Dundas as Deputy Keeper of the Signet in 1797, Warrender was also crown agent from 1800. As a former apprentice of John Davidson, an earlier crown agent, Warrender had a long experience of the justiciary court and, following a period of practice as a writer in the 1770s, he was appointed one of the depute clerks of justiciary in 1789.<sup>31</sup>

### *Employing counsel*

The practice in employing counsel in Edinburgh was for this usually to be done through agents who managed actions in the Court of Session. Such management was fiercely contested between members of the W.S. Society and the S.S.C. Society, as well as those who had traditionally been granted the privilege of managing processes, the advocates' clerks. Both societies complained of interlopers, irregular practitioners, who managed actions without formal admission to practise in the Court of Session, and this is a recurrent complaint with several references to it in the first decade of the nineteenth century.

Each law agent who managed central court business tended to employ the same small set of counsel regularly. John Buchanan, a Glasgow practitioner who began his apprenticeship in 1816, reflected in old age on the practice in his firm when he was a young writer:

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<sup>24</sup> BL, Dropmore papers, Add. MS. 59259, entries 52 and 11.

<sup>25</sup> Hope was also close to Henry Dundas, acting for him on numerous occasions e.g. Advocates Library Session Papers [ALSP], Hope Collection, vol. 6, no. 10.

<sup>26</sup> E.g. R. Bell, *Cases Decided in the Court of Session During Summer Session 1794* (Edinburgh, 1794), nos. 26, 31; ALSP, Hope Collection, vol. 6, *Memorial for Thomas Ruddiman, Printer in Edinburgh, against Elphinston Balfour, Bookseller in Edinburgh, Suspender*, 3 Jul. 1794. He appears in the fee book on 26 May 1810.

<sup>27</sup> E.g. ALSP, Hope Collection, vol. 2, no. 9, *Answers for Thomas Graham, Esq. of Balgowan, Pursuer to the Petition of Andrew Straiton, Tenant in Pitmurly, Defender*, 18 Feb. 1874.

<sup>28</sup> Hope served as lord advocate from 1801 to 1804; Montgomery from 1804 to 1806.

<sup>29</sup> The political dimension is discussed further in a separate section below.

<sup>30</sup> David J. Brown, 'Henry Dundas and the Government of Scotland' (Unpublished PhD thesis, University of Edinburgh, 1989), 33. He also acted for the lord advocate (and assessor for Edinburgh), Robert Dundas: Edinburgh City Archives, Edinburgh Town Council Minutes, SL1/1/125, fo. 95 (16 Dec. 1795).

<sup>31</sup> *Register of the Society of Writers to Her Majesty's Signet* (Edinburgh, 1983), 332; NRS, Books of Adjournal, JC3/45, fo. 325. In the 1770s he can be found in a number of sources, e.g. Edinburgh City Archives, Minutes of the Merchant Company of Edinburgh, SL242/2/4/6, fos 58-9 (a reference from 1771); NLS, Saltoun papers, MS 16755, fo. 43 (17 Mar. 1777).

In Edinburgh, generally speaking, each agent has his own particular set of counsel regularly employed. He does not roam over the Faculty, but keeps strictly to one or more advocates, unless in exceptional cases. In our office we had three counsel, viz., Mr Hope, son of the Lord President, then, as I have said, Solicitor-General, in after years, Lord Justice-Clerk; Mr M'Neill, subsequently Lord President, now Baron Colonsay in the House of Peers; and Mr Patrick Shaw, the well-known law reporter, whom I recollect in a writer's office in Glasgow; excellent, laborious counsel, and uniformly well prepared.<sup>32</sup>

Provincial lawyers often tended to rely on Edinburgh practitioners to advise them on appropriate counsel to instruct.<sup>33</sup> The fee book reflects this in the composition of those recorded as making payments, a feature which will be discussed later.

### *Advocates' fee books*

It is important to note that a fee book is not a journal, diary, or commonplace book. It is little more than a list of activities, names and numbers, the context and significance of which requires to be worked out. In the case of an advocate, whose range of activities was somewhat narrow compared to a law agent, the entries typically relate to fees obtained through giving consultations, drawing petitions, answers, duplies and other papers, drafting opinions, or attending court. While a fee book mentions consultations, since these produced fees, advocates would have kept a separate 'consultation book' to maintain a precise record of the dates of meetings with agents and clients.<sup>34</sup>

Information about such fees can be found from surviving accounts submitted by law agents in relation to litigation carried out for particular clients, but a fee book obviously has much broader information. Properly interpreted, fee books can tell us a great deal about the nature of a particular lawyer's practice, their economic standing, and the health of their legal practice.<sup>35</sup> In Scotland, surviving fee books appear to be very rare. The best known is that of Boyle's friend, Sir Walter Scott.<sup>36</sup> Scott entered the bar in July 1792, and so was a near contemporary of Boyle (they were both founder members of a small debating society known simply as 'the Club' and both were members of the Speculative Society), but he was much less successful as a lawyer.<sup>37</sup> Scott therefore sought the safe haven of salaried office, succeeding Andrew Plummer as sheriff depute of Selkirk in December 1799 and then preparing to supplement this in March 1806 by his admission as one of the principal clerks of

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<sup>32</sup> [J. Buchanan], *Reminiscences in connection with the Legal Profession in Glasgow by a member of the Faculty of Procurators* (Glasgow: James Maclehose, 1873), 29-30. The copy I have used is Buchanan's own copy, with personal notes added, in GUL Spec. Coll., Mu24-c.3. John Hope and Duncan McNeill were both admitted to the Faculty of Advocates in 1816; Patrick Shaw was admitted in 1819.

<sup>33</sup> See, generally, Finlay, *Legal Practice in Eighteenth-Century Scotland* (Leiden, 2015), 39-51.

<sup>34</sup> Alexander Maconochie made reference to his 'consultation book' in 1808: NRS, Papers of John Gray, Lord Advocate's clerk, RH15/76/9/20.

<sup>35</sup> See, for example, C. Eaton, 'A mirror of Southern colonial lawyers: the fee books of Patrick Henry, Thomas Jefferson and Waightstill Avery' 8 (1951) *The William and Mary Quarterly*, 520-34.

<sup>36</sup> T. P. McDonald, 'Sir Walter Scott's fee book' lxii (1950) *Juridical Review*, 288. Scott referred to his 'old friend' Boyle in his journal: W.E.K. Anderson, ed., *The Journal of Sir Walter Scott* (Edinburgh, 1988), 361, 653.

<sup>37</sup> On 'The Club', see J.G. Lockhart, *Memoirs of the Life of Sir Walter Scott, bart* (7 vols, Edinburgh, 1837-8), I, 55, 153n; for the Speculative Society, see Henry Cockburn, *Life of Francis Jeffrey by Lord Cockburn* (2 vols, Edinburgh, 1852), I, 54. See also Anderson, ed., *Journal of Sir Walter Scott*, 578.

session (though, under an arrangement with the incumbent, George Home, he held office jointly and did not begin to receive the salary until 1812).<sup>38</sup>

### *Boyle's fee book*

Boyle's fee book consists of two volumes.<sup>39</sup> At least one earlier volume is missing, presumably lost, which sadly makes it impossible to reconstruct the earliest days of his career. Most of the entries are written in a single hand. This appears to be that of Boyle himself.<sup>40</sup> A few entries seem to have been written by someone else.<sup>41</sup> The first surviving volume, MS Murray 239, in terms of Court of Session business, runs from the beginning of the summer session, 15 May 1801, to the end of the summer session, 8 November 1808. The second volume, beginning on 12 November 1808, the commencement of the Winter Session that year, runs to 20 December 1810. Both volumes contain additional material covering income from judiciary work, employment undertaken in London, and also Exchequer and Revenue business (the latter running into the year 1811). Individual entries are not numbered, but in total there are 1513 of them. In comparison, Sir Walter Scott's fee book covers the period 1792 (the year of his admission) to 1803, a comparable duration, but contains only 733 entries.<sup>42</sup> The fee books taken together appear to contain all Boyle's income from work done for clients in the Court of Session, High Court of Justiciary, Scottish Court of Exchequer and the House of Lords.

The fact that the fee book contains only 44 entries for 1801 indicates that Boyle was then much closer to the beginning of his career than its peak. The largest number of entries is found in the session 1808/9 (a year which included 10 fee payments in London and 50 in the Court of Exchequer).<sup>43</sup> Marginally the best year for income in the fee book was 1806/7 when Boyle earned a total of £1267 1s in Edinburgh and London. The total income for 1801/2 was the smallest at £299 (nearly 285 guineas). Even so, this compares favourably to the 192 guineas which Walter Scott earned in that year.<sup>44</sup> Scott's income of 218 guineas in 1802/3, the most he ever earned from a year at the bar, pales compared to the £561 (534 guineas) which Boyle accumulated in fees in the same period, helped hugely by a lucrative period in London.

Entries in the fee book give varying levels of detail. Obviously, the date and the amount received by way of fee are always recorded, as is the name of the payer. Fees to advocates were paid in multiples of a guinea, though they are recorded in the fee book as pounds, shillings and pence. Thus £31 10s was recorded, rather than 30 guineas, though it was the

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<sup>38</sup> NRS, Great Seal Register, C3/21, no. 3 (16 Dec. 1799); Court of Session, books of sederunt, unpaginated, CS1/19, 8 Mar. 1806; D. Hewitt, 'Scott, Sir Walter (1771-1832), poet and novelist' *Oxford Dictionary of National Biography* (Oxford, 2008).

<sup>39</sup> GUL, Spec. Coll., MS Murray 239 and MS Murray 406.

<sup>40</sup> I have compared the handwriting in the fee books to contemporary letters written by Boyle and the writing is very similar, almost certainly the same.

<sup>41</sup> Cf. entries on 18 and 20 Feb. 1805. An entry dated 11 Jan. 1811 in respect of London business, noting a fee from Mr Brucknell, solicitor of the Admiralty, notes 'Advocates clerk, I believe, has your fee', probably a reference to the Lord Advocate's clerk.

<sup>42</sup> McDonald, 'Sir Walter Scott's fee book', 289.

<sup>43</sup> The number of entries per annual session of the court is as follows (running from 11 Nov. to 10 Nov.): 1800/1 (33); 1801/2 (87); 1802/3 (73); 1803/4 (128); 1804/5 (205); 1805/6 (197); 1806/7 (175); 1807/8 (168); 1808/9 (251); 1809/10 (169); 1810/11 (20). Entries begin on 15 May 1801 and end, in the exchequer, on 1 Jul. 1811. There are a few subsequent entries for 1812, indicating late receipt of fees in an exchequer case heard in 1810. The final entry, dated 18 Feb. 1813, relates to a fee for an arbitration involving the York Building Company in 1809.

<sup>44</sup> McDonald, 'Scott's fee book', 308.

same amount.<sup>45</sup> Sometimes only the name of the relevant case is given with no indication of how Boyle had earned the payment. The services Boyle provided as an advocate varied. He might draw or revise a paper (a memorial, a petition, a proof, duplies, replies, answers, etc.), or draft a condescendence or a bill of suspension. For this the charge would vary from two to four guineas. He might give a consultation, typically for three guineas, though it might be less. He might provide an opinion, again with variation in his fee depending on the complexity of the matter and the length of the opinion. In one week in November 1809, for example, he wrote two opinions. The first, in the case between ‘Mr Sommers & Mr Fox’, earned him six guineas from the firm of Barclay & Fleming W.S. For the second, four days later on 22 November, he was paid two guineas by the firm of Jamieson & Johnston W.S. for an opinion in the case of *Thomson v Gillie*. For pleading the cause of *Warner v Cuninghame* in January 1802 he was paid 20 guineas by James Smyth W.S. Earlier the same month, for attending the trial of Andrew Lawrie of the Post Office, he received 10 guineas from William Beveridge W.S. The lowest fee was a single guinea, though that might apply to different activities, such as drafting a short document or attending court when a petition was being moved or to undertake a short debate (e.g. 20 May 1802). Retaining fees, such as the two guineas paid by William Patrick on behalf of his client David Snodgrass on 12 January 1807, are also recorded in the fee book.

The fee book entries can be compared, and often matched up, to entries in the Outer House Rolls. These comprise the Regulation Roll, Ordinary Action Roll, and Suspension and Advocation Roll, maintained by the Outer House clerks and published, during Boyle’s time, in printed form. Examination of the rolls suggests that Boyle was far from being one of the busier advocates in Parliament House. In the session 1803-4, his name appeared 29 times; in session 1805-6, he appeared on 48 occasions (bear in mind that more than one appearance may be made in relation to the same client).<sup>46</sup> His clients included the Countess of Loudon, Fisher, Buchanan and Company (who ran cotton mills on the Isle of Bute), the Lords of the Treasury, and his cousin, the earl of Glasgow.

The rolls also indicate briefly the types of action in which Boyle was involved. These, however, were quite routine in nature: sequestration actions, multiplepoundings, actions for damages and actions for declarator. The fee book adds interesting and vital detail about Boyle’s activities outside the Court of Session. For example, it reveals his involvement in processes of arbitration, a traditional side-line for advocates.<sup>47</sup> References to ‘submissions’ are fairly common.<sup>48</sup>

The fee book also reveals opinions which were called for in circumstances that may have been entirely independent of litigation or, at least, litigation in the Court of Session. For example, Boyle had a number of clients in the military, not all of whom would have cases in the civil courts but some of whom, through his various connections to the navy and the East India Company, may have had Henry Dundas as a mutual friend.<sup>49</sup> There is, for example, a reference to an opinion in an ‘Admiralty case for Capt[ain] Sampson’ in October 1807, the solicitor involved being Alexander Ponton.<sup>50</sup> The fee book, therefore, adds colour and detail to Boyle’s career which no other single source can provide.

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<sup>45</sup> Payments of expenses, or quarterly payments of salary as solicitor-general for Scotland, were paid in pounds. This explains why subtotals in the fee book are not always neatly divisible into guineas.

<sup>46</sup> These statistics include the Suspension Roll, Regulation Roll and Ordinary Action Roll.

<sup>47</sup> On arbitration, see J. Finlay, ‘Arbitration in Eighteenth-century Scotland’ (2011) *Juridical Review*, 211.

<sup>48</sup> E.g. GUL, Spec. Coll., MS Murray 239, 24 Dec. 1806, ‘For submission between Stevensons and Cleghorn’.

<sup>49</sup> E.g. ‘Opinion for Colonel Douglas’ on 21 Jul. 1806 whose agent was Francis Brodie W.S.; references on 12 Feb. 1807 to Captain Nash and Captain Watson, both represented by Alexander Greig W.S.

<sup>50</sup> Ponton was a writer and notary in Edinburgh. He was certified to act in the Court of Session on 6 May 1795, when his office was in Canal Street: NRS, Certificates of Admission of Procurators before the Court of Session



### *The fee-payers*

Nearly 150 different individuals and firms paid Boyle a fee. The vast majority of them were Edinburgh lawyers. These consisted largely of writers to the signet and law agents, although there were nearly three times as many writers to the signet as agents. To put this in context, the W.S. Society was increasing in size substantially in the early half of the century. In 1805 there were 288 members on its roll, increasing to 313 the following year.<sup>51</sup> This was still less than half of the number which it achieved later in the century, and by no means all the members on the roll necessarily remained in practice. Moreover the W.S. Society was perceived to be the premier body of conveyancers in Scotland (a position questioned by the Society of Solicitors in the Supreme Courts of Scotland) and only some of its members engaged in the management of litigation in the Court of Session on a regular basis.<sup>52</sup> The fact that 95 writers to the signet (including 10 firms) provided a fee to Boyle is therefore strongly indicative of his professional success and suggests a high level of popularity.

In terms of other agents (separate from members of the W.S. Society), these were of three kinds: (i) authorised Court of Session agents (i.e. advocates' clerks or members of the S.S.C. Society); (ii) local agents (some of whom managed cases in the Court of Session without authority); (iii) specialist agents (such as the solicitor in the Stamp Office; solicitors in Exchequer); and London agents. An individual might fall into more than one category. Robert Dundas W.S. (1761-1835), for instance, sometimes provided fees in his capacity as agent for the Board of Excise.<sup>53</sup> James Bremner, who was praeses of the S.S.C. Society and several times in Boyle's fee book, was also solicitor in the Stamp Office.<sup>54</sup>

Roughly half of the agents mentioned in the fee book are recorded as agents admitted in the Court of Session. This, however, may be misleading in that some agents, not admitted, may nonetheless have been clothed with authority. David Lister is recorded as an 'agent' in 1802 when he was actually an apprentice to Edward Bruce, a writer to the signet. Lister himself was admitted to the W.S. Society only in 1805. Similarly George Dunlop was recorded as 'agent' during his apprenticeship as a writer to the signet (he was admitted in June 1807), he then appeared in the fee book in the latter capacity on his own account and also as a partner in the firm of Dunlop and Dickson (with Walter Dickson W.S.), reflecting his changing status between 1806 and 1809.<sup>55</sup> It was certainly possible for an apprentice or clerk to hand over a fee to an advocate's clerk and, indeed, John Tweedie's unnamed clerk is recorded as a fee-giver several times.

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CS311/2153. He was elected procurator fiscal of Edinburgh in 1807: J. Finlay, *The Admission Register of Notaries Public in Scotland, 1700-1799* (2 vols, Edinburgh, 2012), II, no. 2646.

<sup>51</sup> Signet Library, W.S. Sederunt book 1785-1805, fos. 557-560; Sederunt book 1806-1819, fos 1-5.

<sup>52</sup> See the criticism of Robert Bell for making this claim, S.S.C. Library, Sederunt book, vol. 1 (1784-1828), fo. 51.

<sup>53</sup> This Robert Dundas, who became a W.S. in 1785, was the only son of the Rev. Robert Dundas, minister of Humble, and later became a principal clerk of session. He should not be confused with Robert Dundas of Arncliffe, lord advocate and baron of exchequer, already referred to in the text. Nor should he be confused with Robert Dundas (1771-1851), son of Henry Dundas, who was later known as Robert Saunders Dundas (and will be so referred to here for clarity). He was keeper of the signet from 1801 and appointed president of the Board of Control for India in 1807 and, from 1811, First Lord of the Admiralty.

<sup>54</sup> The two roles could coincide, as when Bremner was *ex officio* present 'at the framing of the late Stamp act' in 1808 and able to have it changed in respect of S.S.C. members: S.S.C. Library, Sederunt book, vol. 1 (1784-1828), fo. 137.

<sup>55</sup> Dickson (d. 1855) went through various partnerships during his career, including Kerr and Dickson W.S. (NRS, Miscellaneous letters, GD1/1398/2/7) and ultimately Stewarts and Dickson (NRS, Mackenzie, Innes and Logan W.S. papers, GD245/26). Dunlop (d. 1852) appears to have practised as a sole practitioner from the early 1820s onwards.

The number of local agents (a term which includes Edinburgh practitioners who worked outside of the central courts) was small. In 1805, William Eaton, a writer in Ayr, is mentioned. This is suggestive of a link to Boyle's native county, but more will be said of that below. Alexander Ponton, a writer in Edinburgh who was also procurator fiscal of the baillie court, appears during the period 1807-1810. Ponton was one of those local Edinburgh writers who purported to manage business before the Court of Session without being authorised to do so, and in 1809 the S.S.C. Society sought to have him prohibited from central court practice unless he renounced his practice in the local courts.<sup>56</sup> Having no appointment as an advocates' first clerk, Ponton lost and became found liable in expenses in the Court of Session in 1812.<sup>57</sup>

An Ayrshire link between agents and Boyle is to be expected, though by 1801 there was no obvious bias in that direction. William Patrick W.S., who was one of the Boyle's most regular employers (he supplied him with a fee on 129 occasions between 1801 and 1809) was from Treehorn in Ayrshire.<sup>58</sup> Likewise John Hunter W.S., of Doonholm in Ayrshire, the supplier of 32 fees between 1802 and 1810, was a regular, if less proficient, collaborator. Many other agents who employed Boyle, on the other hand, had quite different backgrounds and connections. For example, John Tweedie, the most regular name to appear in the fee-book (recorded 141 times between 1803 and 1810, with his clerk appearing on four more occasions), and James Horne W.S. (130 mentions across the period 1801-1810), were from Peebles and Caithness respectively.<sup>59</sup> While clients sometimes preferred to employ local men as counsel, successful advocates obviously had to transcend such local and family connections if their careers were to prosper. Boyle's fee book is evidence that he had certainly done that by 1801.

Boyle was to form a close attachment to an Edinburgh writer, Charles Neaves, who was originally from Dundee.<sup>60</sup> According to the Register of Advocates' First Clerks, Neaves, about six years junior to Boyle, became his clerk on 18 January 1806.<sup>61</sup> He also features in the fee book from 1806 onwards (making 24 appearances) as a fee-payer, indicating that he was still occasionally managing business and being paid independently. As the judge's clerk, Neaves remained keeper of the roll of the Second Division in the Inner House when Boyle was promoted to lord president in 1841, and made the transition with him to the First Division of the court.<sup>62</sup> The role of the clerk including collecting fees, keeping the fee book, and ensuring that opinions prepared by counsel were returned to law agents timeously.<sup>63</sup>

A feature one might expect to see, in the course of collecting fees over a decade, is evidence of continuity. This exists in three respects. First, there are numerous examples of

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<sup>56</sup> S.S.C. Library, Sederunt book, vol. 1 (1784-1828), fo. 149.

<sup>57</sup> *Ibid.*, fo. 177.

<sup>58</sup> Register of the Society of Writers to Her Majesty's Signet (Edinburgh, 1983), 250. On his brother, see *The Scots Magazine*, 64 (1802), 180.

<sup>59</sup> Horne was admitted as a notary public in 1781, humorously adopting as his motto the phrase *in cornu salutis spero* 'I place my hope in the horn of salvation': Finlay, ed., *Admission Register of Notaries Public, 1700-1799*, II, no. 2260. Tweedie became a notary in 1794: *ibid.*, II, no. 2798. Having also been admitted a W.S. in 1781, Horne became certified as an agent in the Court of Session in 1789: NRS, Certificates of Admission of Procurators before the Court of Session (1789-1811), CS311/2153, 17 Dec. 1789.

<sup>60</sup> Cf. *The Oxford Dictionary of National Biography* which suggests Neaves was a solicitor in Forfar. He was a writer in Edinburgh when made a notary public in 1807: J. Finlay, ed., *Admission Register of Notaries Public, 1800-1899* (2 vols, Edinburgh, 2018), I, no. 274.

<sup>61</sup> Adv. Lib., Register of Advocates' First Clerk, FR 34B, fo. 122.

<sup>62</sup> NRS, Court of Session, books of sederunt, CS1/27, fo. 243; he remained in custody of the seal of court for a short time after Boyle retired in 1852 until Duncan McNeil's clerk, Donald Robertson, was appointed his successor: CS1/28, fos 441, 446. Neaves was the father of Lord Neaves (1800-1876).

<sup>63</sup> E.g. Glasgow City Archives, Records of Messrs T.J. & W.A. Dykes, solicitors, Royal Bank Building, Cadzow Street, Hamilton, T-DY 1/1/14, Dykes to George Cranstoun, 8 Aug. 1821.

Boyle's services being retained on multiple occasions by the same agent over a significant period of time. As well as the main agents who employed him regularly, others demonstrated a less frequent but persistent engagement. Robert Cathcart W.S., for instance, paid fees on seventeen occasions between 20 May 1801 and 20 February 1807. Alexander Grant W.S. (d. 1808) employed Boyle four times between the end of 1801 and the middle of 1807.

Secondly, individuals who employed Boyle sometimes entered into partnership and ensured that their new firm continued to do so. John Tod W.S. appears in 24 entries in the fee book between 1801 and 1807; from 1808 to 1810 there are a further eight entries in respect of the Edinburgh firm Tods & Romanes. The partners in Tods & Romanes were John Tod, his brothers Archibald (another W.S.) and Thomas (an advocate), and John Romanes, a writer in Edinburgh.<sup>64</sup> A further reference to 'Messrs Tods' in the fee book 1807 suggests that this may not have been the first partnership between the brothers, or at least two of them, and this is not surprising because at this stage of development in the profession the vast majority of partnerships were short-lived. Alexander Monypenny W.S., the brother of the advocate David Monypenny (on the bench from 1811 as Lord Pitmilley), appears in the fee book in 1806 and again later as part of the firm Mackenzie & Monypenny in 1810, in partnership with William Mackenzie W.S. (both of whom having been apprenticed to the latter's elder brother Colin Mackenzie of Portmore). Archibald Ferrier W.S. instructed Boyle in 1802 but, by 1809, was carrying on business in partnership with his brother John. Another example is John Hunter W.S., who regularly worked with Boyle from 1802. He also appears in entries alongside David Stewart W.S. in the firm of Hunter & Stewart.<sup>65</sup> Francis Brodie appears both individually (in 1806) and, between 1803 and 1805, as part of his George Street firm, Walker & Brodie, with James Walker.<sup>66</sup>

The third example of continuity lies in the relationship between masters and apprentices. Apprentices had the opportunity to get to know counsel with whom their masters had a business connection and it was natural that they should seek to employ them later on their own account. There is some evidence of this in the fee book. Alexander Greig W.S., who provided a fee on 76 occasions from 1802 onwards, was a recent apprentice of James Horne who continued as one of Boyle's most important professional connections. Other examples, amongst the writers to the signet, include James Thomson (apprenticed to James Chalmer), James Elliot (apprenticed to Cornelius Elliot), William Ballantine (apprenticed to John Hunter) and William Beveridge (whose apprentice master was James Thomson). All these names appear in the fee book. In some cases, continuity was ensured by apprentices becoming partners with their former masters, as occurred in the case of George Russell and his master John Anderson of Inchyra W.S.; William Walker who was formerly apprenticed to Alexander Abercromby; and William Drysdale and his former master James Buchan.

### *Politics*

Another dimension of Boyle which the fee book illuminates relates to his political interests and affiliations. One man who appears several times, John Anderson W.S., was the agent of

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<sup>64</sup> The three brothers were sons of Thomas Tod of Drygrange W.S. (1726-1800). A five-year partnership agreement survives, to run from 31 Dec. 1809 to 31 Dec. 1814: NRS, Records of Tods, Murray and Jamieson W.S., lawyers, Edinburgh, GD237/20/43. The 1809 partnership was most likely created in order to admit Romanes as a partner. It is interesting that a member of the Faculty of Advocates was permitted to enter into partnership, though this was still fairly early in the development of partnership as a business form for Scots lawyers.

<sup>65</sup> Entries in the firm name appear on 19 Nov. 1807, 24 May 1809 and 31 May 1810. Entries in the name of John Hunter alone occur between 12 June 1802 and 5 June 1810.

<sup>66</sup> It is unclear when the firm came to an end and it may still have existed in 1806: NRS, Hope of Craighall papers, GD377/150; Court of Session, unextracted processes, Drysdale Office, CS232/W/14/6; CS232/W/15/10.

Boyle's father-in-law, Hugh, twelfth earl of Eglinton.<sup>67</sup> In May 1807, Boyle acknowledged that Eglinton had 'given me his interest in the most handsome manner' in support of his campaign in Ayrshire for election to parliament.<sup>68</sup> In return, 'as it must be my wish to serve his friends', Boyle solicited on behalf of Major Alexander Campbell, a relative of an Ayrshire voter who was disposed to support Eglinton's interest.<sup>69</sup> Boyle had acted as counsel for Eglinton prior to this and he continued to do so (his personal connection to the thirteenth earl continued to be strong).<sup>70</sup> Yet while Eglinton's support was important locally, it had little sway with the Dundas interest.<sup>71</sup>

Boyle knew his election law, a matter of deep interest to lawyers and landed men at the time and a subject of regular litigation.<sup>72</sup> The fee book reflects this. As well as providing consultations in connection with local politics, such as the 15 guineas he received from the agent George Dunlop on 19 January 1806 when consulted on the Renfrew Burghs election (he was regularly consulted in relation to Renfrew politics around the time of the 1806 election), Boyle also personally attended elections on behalf of clients, presumably to ensure that the procedures followed were legally correct.<sup>73</sup> Dunlop paid him 30 guineas on 5 December 1805 for attending the Renfrew election, a few days later, on 9 December, he was paid 40 guineas by Alexander Monypenny W.S. for 'attending Fife election for Gen[eral] Wemyss'. He can be found attending the Dumfries election in November, although James Hope W.S. paid him for this only on 24 May 1807.<sup>74</sup>

Henry Cockburn, who strangely had relatively little to say about Boyle in his writings despite discussing other political rivals (including Charles Hope) at some length, clearly liked him and at one point refers to him, when lord president, as having 'long experience and great political sagacity'.<sup>75</sup> The politics of various parts of the country are mentioned in the fee book as being subjects of consultation with Boyle, including Lanarkshire (7 April 1805), Queensferry (13 Nov. 1806) and Culross (20 June 1807).<sup>76</sup> It is possible to match up entries from the fee book to individual Session Papers dealing with election matters. Thus, the fee of three guineas from James Horne W.S. for drawing a one page *Condescendence*, for

<sup>67</sup> See, e.g., Suspension and Advocation Roll, 18 Feb. 1806, no. 7; Ordinary Action Roll, 20 Feb. 1806, no. 7: NRS, Outer House Rolls, CS90/1/13.

<sup>68</sup> NLS, Melville papers, MS 1049, fo. 40 (Boyle to Robert Dundas, 16 May, 1807).

<sup>69</sup> Campbell literally soon shot to fame by killing a fellow officer in a duel, leading to his conviction at the Armagh assizes in Aug. 1808 and his subsequent execution: *The Trial of Major Campbell for the Murder of Captain Boyd in a Duel, on the 23d of June, 1807* (London, 1808).

<sup>70</sup> See, e.g., Ordinary Action Roll, 20 Feb. 1806, no. 7: NRS, Outer House Rolls, CS90/1/13. Boyle was present in 1839 at the Eglinton Tournament. He can also be found writing from the earl's Pavilion in Ardrossan in the summer of 1826: NLS, Robertson-MacDonald papers, MS 3950, fo. 28; W. Gordon, *An Account of the Eglinton Tournament* (Edinburgh, 1839), 8; J. Richardson, *The Eglinton Tournament* (London, 1843), plate 18.

<sup>71</sup> NLS, Melville papers, MS 1055, fo. 26v.

<sup>72</sup> See Finlay, *Community of the College of Justice*, 250; *ibid.*, *Legal Practice in Eighteenth-century Scotland*, 298, 316-7, 380-1.

<sup>73</sup> On 9 Nov. 1806 he was paid 10 guineas by George Dunlop for 'Consult[at]ions on Renfrew Politics for Blythwood. This is a reference to Archibald Campbell of Blythwood, who was M.P. for Glasgow Burghs from 1806 and controlled the burgh of Renfrew from 1802: Thorne, ed., *The House of Commons 1780-1820*, III, 368. There is reference on 27 Feb. 1807 to 'Consult[at]ion on Mr Campbell's Renfrew Pet[io]n' when Boyle was in London. His fee for going to London 'on [the] Renfrew petition' in Jul. 1807 was 250 guineas (£262 12s), paid by Dunlop. He also drafted a memorial for Blythwood on 22 Nov. 1808.

<sup>74</sup> Hope had supplied a retaining fee, on 21 Nov. 1806, 'for Capt. Hope for Dumfriesshire election'. This was Captain William Johnstone Hope, a strong Melville supporter (and brother of Boyle's friend the advocate and judge Charles Hope), who was elected in 1806: Thorne, *House of Commons 1780-1820*, IV, 232.

<sup>75</sup> Cockburn, *Life of Jeffrey*, I, 384. Elsewhere he describes him as 'an honest, kind gentleman': H. Cockburn, *Circuit Journeys* (Edinburgh, 1889), 244.

<sup>76</sup> Boyle was consulted on Queensferry cases by Horne on 8 Jul. 1806 and 11 Jun. 1807. Horne was close to town councillors in Queensferry, e.g., NRS, CS271/772. He was also appointed legal agent for the burgh of Burntisland: NRS, Burntisland TCM, B9/12/19 (entry dated 26 Sep. 1794).

Alexander McNab and other councillors in Queensferry, can be found in the Advocates Library.<sup>77</sup> The paper, dated 2 January 1807, bears an annotation that it was heard on 17 January though the fee is recorded as being received on 13 January.<sup>78</sup> Similarly a three guinea fee was paid by Horne for *Answers* for the councillors of Culross on 17 December 1804, with the paper dated 4 January 1805 appearing in the Hope Collection.<sup>79</sup>

Boyle's fee for going to London 'on Sir John Sinclair's petition' in June 1807 was 200 guineas and this was also supplied by Horne. Sinclair, famous as the originator of *The Statistical Account of Scotland* and as an agricultural improver, was an ally of Boyle's patron Henry Dundas and also a regular client of Boyle's. Indeed, Horne consulted Boyle in relation to the political situation in the 'Northern Boroughs' and this is reflected by an entry on 31 January 1806.

Horne, a native of Caithness who was particularly well-connected in the north and in Fife, was an important figure for Boyle and, indeed, for Dundas.<sup>80</sup> He was clearly both law agent and political fixer (as a notary he was on hand to record instruments of protests at numerous elections), and Dundas recognised him as someone in regard to whom he had a long obligation 'to provide for' by political means.<sup>81</sup> In 1804, he wrote to his son discussing the possibility of an arrangement with James Montgomery which would allow Horne to step into an office in the exchequer. The plan misfired but, three years later, Melville described Horne, after the death of William Beveridge, solicitor for the Post Office, as a difficult man to refuse if he applied for the post given that 'he had been long an expectant'.<sup>82</sup>

Another agent much interested in politics was George Dunlop. Dunlop, who became a writer to the signet in 1807 at the age of 31, was an experienced Edinburgh writer who was keenly involved in party politics in Stirlingshire, Dunbartonshire and Perthshire.<sup>83</sup> Individually, and as a partner in Dunlop and Dickon W.S., he is recorded on sixteen occasions in the fee book between 1806 and 1809.

As a supporter of Henry Dundas, Boyle can be found in his patronage network, soliciting favours for those, like Alexander Campbell, whose advancement might help his own or the wider Tory cause. Making John Kelso a free merchant in India, for instance, might oblige his father, Colonel Kelso, and his uncle, both of whom had supported Boyle when elected to parliament.<sup>84</sup> Having Dundas recommend the son of the sheriff of Ayr to the commander in chief of his regiment in Madras was a useful favour for Boyle to perform.<sup>85</sup> Likewise, it was

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<sup>77</sup> Adv. Lib. Session Papers, Hope Collection, vol. 2, no. 13, *Condescence for Alexander MacNabb and others, who were duly elected Magistrates and Councillors of the Burgh of Queensferry at Michaelmas 1802, Complainers, against John Martin and others, Respondents*, 2 Jan. 1807.

<sup>78</sup> The case was ultimately heard in the House of Lords, with Boyle appearing: Paton, v, 125.

<sup>79</sup> Adv. Lib., Hope Collection, vol 2., no. 10, *Answers for Alexander Masterton and others, elected Magistrates and Councillors of the Burch of Culross at Michaelmas 1804 to the Petition and Complaint of John Meiklejohn and others, pretending to have been then elected Magistrates and Councillors of the said Burgh*, 4 Jan. 1805.

<sup>80</sup> Horne was employed, for instance, by the town council of Tain in 1798: NRS, Tain town council minutes, B70/6/1, fo. 246. He employed Boyle to draw a memorial for the magistrates of Thurso (Fee book, 2 Feb. 1805). As noted, Horne had strong links to town councillors elsewhere and was intimately connected to Tory politics. His nephew (also his apprentice and, later, partner), Donald Horne WS, was the Tory agent in Edinburgh in the 1820s.

<sup>81</sup> NRS, Melville papers, GD51/5/431/1. He was on hand at the Queensferry election in 1802 (see note 76 above).

<sup>82</sup> Ibid, GD51/5/435/3. Horne appears in the fee book as an 'agent for the Board of Excise' in regard to exchequer business in 1810.

<sup>83</sup> E.g. NRS, Papers of the Cuninghame Graham Family of Ardoch, Dunbartonshire, GD21/1/321; Papers of the Campbell Family, earls of Breadalbane, GD112/74/16/21.

<sup>84</sup> NLS, Melville papers, India, MS 1064, fo. 153: Boyle to Henry Dundas, 3 Aug. 1807.

<sup>85</sup> Ibid., MS 1073, fo. 173: Boyle to Henry Dundas, 9 Jul. 1810.

politic to keep two freeholders in Ayrshire in good humour by having a young man recommended to the post of assistant surgeon in Bombay in 1810.<sup>86</sup>

### *London business*

Like many leaders of the Scots bar, Boyle's services were in demand in Scottish appeals taken to the House of Lords. The substantial income from London solicitors which he obtained was carefully recorded in his fee book (see the Appendix).<sup>87</sup> The solicitors and parliamentary agents Alexander Mundell, John Richardson, and James Chalmers, and the firm of Spottiswoode and Robertson, are all named as employing him for matters dealt with in London.<sup>88</sup> He was also paid fees in connection with one case by the solicitors Ross and Hall (later, though not in Boyle's fee-book, known as Ross, Hall and Ross and situated in New Boswell Court, Carey Street).<sup>89</sup>

The first period in London recorded in the fee book was between March and May 1803. Boyle's first fee, 'for signing & settling of appeal Cr[editor]s of Stein v Stein', was received from Alexander Mundell. He was paid on 2 April by Spottiswoode and Robertson to consult and attend a Commons Select Committee looking into the parliamentary election in Stranraer burghs in 1802.<sup>90</sup> He was also paid, this time by Robert Dundas WS, to attend a similar Select Committee looking into the outcome of the election in Dunfermline for the Stirling Burghs seat.<sup>91</sup> Boyle received the generous sum of £200 for this. The name of James Horne WS came up in evidence before the committee in circumstances where bribery was alleged (although not against Horne personally) in an attempt to fix the election.<sup>92</sup> Boyle is listed as alternate counsel for Captain Alexander Cochrane, to act in the absence of the two regular counsel retained by him. Cochrane had been Viscount Melville's preferred candidate and he ultimately prevailed against Sir John Henderson.<sup>93</sup> The case was a complex one, but Boyle's presence owed as much to his furthering Melvillian political interest as his legal input.

This was not the last time Boyle would be involved with committees looking into the goings-on at elections. There are references in the fee book in 1807, for example, to the 'Edinburgh election committee for Sir P[atrack] Murray' (20 February), and also to a committee in relation to Wick (22 March), both of which Boyle attended when in London. His fee in the first case was paid by Spottiswoode and Robertson, consisting of three entries in total with separate fees for being retained (5 guineas), a consultation and ballot (15

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<sup>86</sup> Ibid., MS 1074, fo 170r: Boyle to Henry Dundas, 15 Dec. 1810.

<sup>87</sup> On advocates before the House of Lords, see J. Finlay 'Scots lawyers and House of Lords appeals in Eighteenth-century Britain' 32 (2011) *Journal of Legal History*, 249-277.

<sup>88</sup> Ibid., 'Scots lawyers, England, and the Union of 1707' in H.L. MacQueen, ed., *Miscellany Seven* (Edinburgh, Stair Society, 2015), 243 at 258; D. Hall & T. Barry, *Spottiswoode, Life and Labour on a Berwickshire Estate, 1753-1793* (East Linton, 1997), 50-54.

<sup>89</sup> The earliest reference to Ross and Hall I have thus far traced is in the *Sun*, no. 1713, 21 Mar. 1798. There is evidence of William Ross at the same address, as a sole practitioner, in 1795: *Morning Post and Fashionable World*, no. 7293, 16 Jun. 1795. *The Times*, no. 6420, 26 Aug. 1805, p.2. *The Edinburgh Gazette* (1809), 89; *The London Gazette* (1810), 1041.

<sup>90</sup> Entry 2 Apr. 1803. HC Journal, 3 Mar. 1803;

<sup>91</sup> HC Papers, (39) III.601 (1802-3), Extracted of the Minutes of the Evidence taken before the Select Committee on the Dunfermline election.

<sup>92</sup> Ibid., *passim*.

<sup>93</sup> R.H. Peckwell, *Reports of Cases of Controverted Elections in the Second Parliament of The United Kingdom: Begun and Holden August 31, 1802*, 2 vols. (London, 1805), I, p. 1. In the fee book, Boyle was paid 30 guineas by Robert Dundas W.S. for 'attending as counsel for Capt. Cochrane at Stirling' on 18 Jul. 1802 and the same again on 30 July for attending as his counsel at Dunfermline: GUL, Spec. Coll., MS Murray 239. Some of the papers are preserved in Adv. Lib. Session Papers, Hope Collection, vol. 2, no. 20. This includes correspondence of James Horne W.S.

guineas), and his attendance at the committee (another 5 guineas). Murray, as sitting member, was returned when the petition was found to be frivolous.<sup>94</sup> In the second case, he was paid £130 by James Horne W.S., this being recorded simply as fees ‘on Wick committee including consultations’. This concerned a dispute between Sir John Sinclair and John Randall Mackenzie which Mackenzie, as sitting member, won on 6 March.<sup>95</sup>

During his stay in London in 1803, Boyle met Bruce Campbell who later sent him ‘an old Ballad’ concerning the burning of Loudon Castle by the Kennedys of Achruglen.<sup>96</sup> This was clearly something Boyle thought might interest Walter Scott, with Campbell noting that if Scott was indeed interested ‘he was welcome to it’.<sup>97</sup>

When in London, Boyle took the opportunity to consult on English cases, doing so for a ‘Mr Allan, solicitor & attorney’ on a couple of occasions in 1807.<sup>98</sup> The main part of his business was Scottish appeals and they were lucrative. An example, from 15 March 1804, show him receiving from Spottiswoode and Robertson the sum of 110 guineas (expressed as £115 10) for ‘9 days Hearing & 4 Consult[a]t[i]ons in case of Davidson & Abercromby v Fleming in H[ouse] of Lords’.

London was, of course, the place to be noticed in political circles. As well as making money, and solidifying contacts, Boyle during his sojourns there would have become known to those whose support would be important if he were to meet his political and professional aspirations. His time there was clearly not wasted, and he would already have been known by the time he took his seat as a member of parliament.

Boyle’s sojourns in London, typically for Scots counsel, coincided with the period around March to April when Scottish appeals were heard in the House of Lords. He features in a handful of reported cases which were appealed to the Lords, cases that were dominated by election disputes. For example, he was counsel for Harry Davidson W.S., a freeholder in Stirling, in his appeal against Captain Charles Elphinstone Fleming in 1804 relative to the latter’s purported qualification as a voter.<sup>99</sup> His earliest involvement in a case coming before the House of Lords appears to have been in 1802, as junior counsel to William Alexander in an action of damages for defamation, when they were successful in having the appeal dismissed.<sup>100</sup> He also acted as junior to Alexander in the Queensferry election case noted earlier.<sup>101</sup>

At the very end of period covered by the fee book, in December 1810 when his attention was upon promotion to the bench and capturing ‘a double gown’ as a civil and criminal judge, Boyle, as solicitor-general for Scotland, was called to London by his political superiors. This was much to the annoyance of his sponsor, Henry Dundas:

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<sup>94</sup> HC Papers, (140) III. 497 (1806-7), 505, List of Controverted Election Petitioners, Session 1806-07. Murray was a friend of Scott’s from university days. Indeed, he offered to arrange, with Boyle and George (Lord) Abercromby, for Scott’s promotion to the Court of Session bench in 1826: W.E.K. Anderson, ed., *The Journal of Sir Walter Scott* (Edinburgh, 1998), 94.

<sup>95</sup> HC Papers, (140) III. 497 (1806-7), 503, List of Controverted Election Petitioners, Session 1806-07.

<sup>96</sup> NLS, Scotch Ballads materials for Border Minstrelsy, MS 877, fo. 136. On this ballad, see W. Robertson, *Ayrshire: Its History and Historical Families* (Ayr, 1908), 155.

<sup>97</sup> The first volumes appeared in 1802 of W. Scott, ed., *Minstrelsy of the Scottish Border: Consisting of Historical and Romantic Ballads, Collected in the Southern Counties of Scotland; With a Few of Modern Date, Founded Upon Local Tradition* (Kelso: T. Cadell, jun. and W. Davies, London, 1802).

<sup>98</sup> Fee book, 17 Apr. 1807 (consultation, 3 guineas), 1 Aug. 1807 (opinion, 15 guineas).

<sup>99</sup> *Davidson v Fleming*, 18 Apr. 1804, Paton’s App., iv, 554; Mor Dict. 8599.

<sup>100</sup> *Morthland and Johnston v Cadell*, 26 Jun. 1802, Paton’s App, iv, 385. There is a line in the fee-book, on 6 Jul. 1802 which says ‘Note in Case of Cadell [contra] Morthland & Johnston’ in which he received 30 guineas from Robert Cathcart W.S. This suggests a hand in drafting or revising pleadings, since Boyle was not in London that year.

<sup>101</sup> *Martin & Ors v MacNabb & Others*, 1 Jul. 1806, Paton App., v, 125. See above, note 77.

My opinion is that the moment you avowed your view for a judicial situation and in prosecution of that object stood upon your professional character, you ought to avoid all polemical Politicks: the calling upon the Solicitor at all to attend Parliament is altogether a novel idea; such attendance is ruinous to his professional emolument and situation, and equally incompatible with a proper discharge of your official Duties exclusive of the particular circumstances of the moment ... I should have advised you to vacate your Seat in Parliament rather than submit to an understanding continuing to subsist & to be acted upon that your situation as a Member of Parl[iamen]t entitled Ministers to call upon you whenever it suited their fancy or convenience.<sup>102</sup>

The 'circumstances of the moment' were Boyle's ambitions towards the bench, something in which Dundas gave him full support.

### *Criminal business*

As lord justice clerk, Boyle would spend many hard hours on the road during the criminal circuits and the fee-book demonstrates the importance of the income from his criminal practice when at the bar. He was still reasonably young when first appointed as one of the advocates depute to join the north circuit in 1802.<sup>103</sup> Having presented his commission from the lord advocate, he was sworn in as advocate depute in Perth on 6 September before the lord justice clerk (Lord Eskgrove) and Lord Methven, as well as the sheriffs-depute of Perth, Fife and Forfar.<sup>104</sup> His first prosecution, on a charge of murder or culpable homicide against Lawrence Bolt, a sergeant in the North Lowland fencibles, resulted in a verdict of not proven.<sup>105</sup> It is recorded in the fee book against a fee of two guineas. Above it are two further entries, each of two guineas, respecting the fugitation (outlawry) of a group of three men charged with assault in Forfar who had failed to appear, and a case of sedition. It is worth noting that the order of fees received does not follow that in the books of adjournal. Indeed the date of assizes in Perth given in the fee-book, 3 September, is incorrect, although this may refer in fact to the date Boyle received his £50 allowance as advocate depute from Hugh Warrender.

The north circuit covered Perth, Aberdeen and Inverness. Other counsel in attendance in Perth during this circuit included John Hagart (admitted to the Faculty of Advocates in 1784), John Hay Forbes (adm. 1799), James Moncreiff (adm. 1799), James L'Amy (adm. 1794), James Keay (adm 1799), indicating a fair proportion of younger men at the bar. In terms of legal argument, the highlight of the Perth trials was undoubtedly an argument between Boyle and Hagart in the case of John MacInnes, accused of sheep stealing, which related to the application of the 1701 Act (sometimes referred to by historians as the Criminal Procedure

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<sup>102</sup> NLS, Melville papers, MS 1055, fo. 25r. The solicitor-general traditionally remained in Scotland as deputy to the lord advocate who would, when required, travel to London on political business (and also to appear in Scottish appeals). See the remarks of Robert Craigie, lord advocate, in seeking to have William Grant replaced as solicitor-general for Scotland in 1755, since jealousies surrounding Grant in Edinburgh made it more difficult for Craigie to leave in order 'to attend his majestys service in Parliament when the whole of my office must be carried on by the Sollicitor as my Deputy': NLS, MS 7048, fo. 108r. Cf also H. Cockburn, *Letters Chiefly connected with the Affairs of Scotland* (London, 1874), 507.

<sup>103</sup> Amongst contemporary advocates depute (1802-4), only George Ross (b. 1775) and Alexander Maconochie (b. 1777), both appointed in 1804 by James Montgomery, were younger than Boyle. William Robertson (b. 1753), Robert Hodgson Cay (b. 1758), David Williamson (b. 1761) and Robert Blair (b. 1764) were considerably older, while George Abercromby (b. 1770) was only slightly older. Stuart Moodie's date of birth is unknown, but he became a W.S. in 1787 and an advocate in 1793, suggesting he was born in the early 1760s.

<sup>104</sup> NRS, Books of Adjournal, JC11/46, fo. 45r.

<sup>105</sup> Ibid, 49r.



Act and considered by contemporaries as being the Scottish equivalent to *habeas corpus*).<sup>106</sup> The judges, having heard Boyle's response concerning the objections Hagart raised, remitted the case to be heard in Edinburgh before the High Court of Justiciary the following November.

Boyle already had experience of criminal practice. His income from the southern circuit (Jedburgh, Dumfries and Ayr) in the spring of 1802 is recorded in his fee-book. While he was appointed as a depute to attend his native western circuit in the spring of 1803, he did not do so (London was more lucrative), although he did attend the autumn western circuit that year and the following year.<sup>107</sup> As noted earlier he was reappointed as an advocate depute in December 1804 by Charles Hope's successor, Sir James Montgomery.<sup>108</sup> In 1805, he attended the western circuit in the spring and the southern circuit in the autumn, but commission lapsed, as noted earlier, following the appointment in 1806 of Henry Erskine. There were normally eight deputes and there was a strong political bias in favour of Lord Melville's supporters amongst the appointments during Boyle's tenure.<sup>109</sup>

Boyle was paid £50 each year in January and June from the exchequer in respect of 'charges and expenses' resulting from his role as advocate depute. He engaged in work for the crown before the justiciary court in Edinburgh and also appellate work on the circuit. In 1802 he earned seven guineas from southern circuit appeals; the following year, Glasgow appeals earned him six guineas. The most lucrative single circuit appears to have been the western circuit in 1805, when his income for the period from April to June was £121 8s (not including his exchequer payment). His total income for criminal-related work from the spring of 1802 until December 1806 was £952 8s (just over 907 guineas). This may be compared, for the same period (until the end of the summer session on 9 November 1806) to just over 2095 guineas for civil work. Criminal work therefore represented about 30 per cent of his income in this period.

### *Conclusion*

Examination of Boyle's fee book and its context prompts several conclusions. Boyle was moderately successful at the bar. In 1808 the lord advocate, Archibald Colquhoun, considered the men at the bar with the best claims to promotion to the bench to be Robert Blair, David Hume and Matthew Ross (who succeeded Blair as dean of the Faculty of Advocates in 1811).<sup>110</sup> The lord president's son, Archibald Campbell, nearly three years older than Boyle, was also thought to have sufficient standing to be promoted to the bench but there was strong objection from the government to a proposal that he should do so immediately upon the resignation of his father in 1808.<sup>111</sup> There were other advocates who appear to have been busier at the bar than Boyle and whose fee books would have had more bulk, if not necessarily reflect significantly higher income. Yet Boyle was certainly popular with Court of Session agents, particularly writers to the signet. Moreover, the significant change to the

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<sup>106</sup> Ibid., fos 60r-70r. See, e.g. BL, Peel Papers, Add MS 40339, fo. 46r, William Rae, lord advocate, to Robert Peel, 1 Oct. 1822. 'the Act 1701 cap. 6 which is considered as the *Habeas corpus* of Scotland'.

<sup>107</sup> NRS, Books of Adjournal, JC4/2, fo. 270v.

<sup>108</sup> Ibid., JC4/3, fo. 79v.

<sup>109</sup> His colleagues included Robert Blair (then solicitor-general for Scotland), John Burnett, David Hume, Stuart Moodie and Alexander Maconochie. Hope, and to a lesser extent Montgomerie, were also sympathetic to the Dundas interest.

<sup>110</sup> NLS, Melville papers, MS. 9, fos 8, 18, Colquhoun, lord advocate, to Henry Dundas, 6 Jan. 1808. Ross positively declined promotion to the bench: *ibid.*, fo. 18, *idem* to *idem*, 17 Feb. 1808.

<sup>111</sup> Ibid., Melville papers, MS 59, fo. 100. Robert Saunders Dundas to the Chief Baron of the Exchequer, 27 Jul. 1808. They feared such an appointment would sully the court and would 'infallibly be considered as a Job' (i.e. a deal made corruptly for private family advantage).

structure of the court in 1808 (the creation of two divisions in the Inner House) appears to have had no immediate effect on Boyle's level of activity or remuneration. The reduction in his overall income in that year is attributable to his undertaking less business in London. In terms of his work in Edinburgh, the fee book indicates that more individual payments were received in session 1808/9 than any other, although if payments in respect of London and Court of Exchequer activities are removed, and only Court of Session fees are counted, a slightly higher number of individual payments was made in 1804/5 (see Appendix).<sup>112</sup>

The fee book suggests that the key to Boyle's success was forensic ability allied to the fact that he was a well-connected political actor. This explains his commission as advocate depute and it was upon the basis of that aspect of his career that he later became a credible choice for lord justice clerk. His appointment in 1807 as solicitor-general for Scotland saw fees begin to come in from the Treasury solicitor (Henry Charles Leitchfield), Exchequer solicitors (including Henry Mackenzie and William Jackson), solicitors of Excise, and solicitors in the Stamp Office. In terms of clients, Tory place-men knew the right counsel to consult and Boyle was prominent among them. In 1806, for instance, the Lords of Treasury retained Boyle through Robert Dundas W.S., their agent, and James Horne W.S. was well connected politically. The description of Robert Corbet in 1807, quoted earlier, 'without political influence of any sort', was a telling one: Boyle did have such influence and it is vital in understanding both the fee book and the trajectory of his career.

Even so, Boyle did not reach the bench through unusually rapid promotion. By the time he became a judge, he had been at the bar for just over sixteen years. Following the death of David Douglas (Lord Reston) in 1819, Lord President Hope, having agreed with Boyle that none of the sitting judges in the Court of Session were apt for promotion to the justiciary court and that Reston's replacement should sit in both the civil and criminal courts, considered whether the solicitor-general for Scotland, James Wedderburn, might deserve such promotion.<sup>113</sup> While he had 'good abilities & competent law', Wedderburn's 'cold and frigid manner & gruff manners will do better on the Bench, than in the more courtly office of Lord Advocate', Hope thought, and in terms of experience, having entered the bar in 1803, Wedderburn was 'now nearly 15½ [years] standing, which I think was about Boyle's time, when he got his Double gown'.<sup>114</sup> While Wedderburn was not promoted—the lord advocate, Alexander Maconochie, being preferred—it is clear that Boyle's period at the bar was not regarded by contemporaries as having been unduly short prior to his promotion.<sup>115</sup>

When Boyle did become a judge he put aside 'polemical politicks', as Dundas had suggested, and during a long judicial career as lord justice clerk and lord president, seems to have enjoyed the respect of the bar and his fellow judges. A glance at Boyle's justiciary notebooks, which commence in 1811 and run in a series until 1849, demonstrate his assiduity on the bench, as do his copious notes on material in the Boyle Collection of Session Papers.<sup>116</sup> According to Henry Cockburn, Lord Boyle into old age still thought the public

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<sup>112</sup> Cf note 43 above. Boyle received 10 London fees and 50 Exchequer fees in 1808/9, but none in either category in 1804/5.

<sup>113</sup> Reston was replaced on the bench by James Wolfe Murray (Lord Cringeltie): NRS, Court of Session, Books of Sederunt, CS1/21 fo. 301 (29 Jun. 1819).

<sup>114</sup> NLS, Melville papers, MS 10, fos 128-9. Similar sentiments were expressed by William Rae: *ibid.*, Melville papers, MS 1057, fo. 174. It is worth noting that it was Hope who had been behind the promotion of Adam Gillies to the bench in 1811, despite Gillies being a Whig and opposed to the government of the day. Cockburn regarded this as being to Hope's credit and as 'a marked deviation from established practice': Cockburn, *Memorials of His Time*, 269.

<sup>115</sup> NRS, Court of Session, Books of Sederunt, CS1/21, fo. 306 (29 Jun. 1819). The new Lord Advocate was William Rae. Wedderburn died, still solicitor-general for Scotland, in 1822.

<sup>116</sup> Adv. Lib., Adv. MS. 36.3.1 (1811-1849); Adv. Lib. Session Papers, Boyle Collection, 1810-1852 (the earliest paper in volume 1, by George Cranstoun, is dated Dec. 1810). The first criminal trial over which Boyle

dinners associated with the circuit to be of importance in reflecting the majesty of the law and in preserving locally the importance of both church and state.<sup>117</sup> From Cockburn's account, the dinners and the circuits were a physical test but one which Boyle appears to have taken in his stride. When he retired to Shewalton, he continued to welcome guests, such as Cockburn, whenever the circuit court came to Ayrshire.

In some ways Boyle's career resembles that of John Inglis (1810-1891), Lord Glencorse, who also spent more than three decades on the bench as lord justice clerk and lord justice general to considerable acclaim.<sup>118</sup> Inglis was perhaps a more moderate Tory but he also enjoyed a substantial criminal practice—most notably as defence counsel for Madeleine Smith in 1857—and undertook the roles of advocate depute and, briefly in 1852, solicitor-general for Scotland.<sup>119</sup> A significant difference, however, was the fact that Inglis served as dean of the Faculty of Advocates from 1852-1858, whereas Boyle was much less active in the Faculty's affairs.<sup>120</sup> While he did contribute to Faculty life, and did not neglect his responsibilities in that regard, his fee book suggests that his time was dominated with practical questions of law and politics.<sup>121</sup>

Arguably, Boyle's generation at the bar was a better one compared to that which emerged in the middle of the nineteenth century, and his generation on the bench repaired some of the damage that had been done in the 1790s by 'tyrannical men', as Watt called them, such as Lord Justice Clerk Braxfield.<sup>122</sup> The fee book, in covering the period when he had reached maturity as an advocate, provides a fascinating insight into the activities of a man who in these years was solidly laying the foundation for one of the most significant judicial careers in the history of the Scottish bench.

### *Acknowledgements*

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presided judicially was the robbery trial of Thomas McNair in the High Court of Justiciary in Nov. 1811. The circuit notebooks were presented to the Faculty of Advocates by Boyle's son, Archibald (on whom see below, note 117), in Jul. 1869: Adv. Lib., Faculty of Advocates Minute Books, FR 9, fo. 163.

<sup>117</sup> Cockburn, *Circuit Journeys*, 73.

<sup>118</sup> Watt may be correct in seeing a stronger resemblance between Charles Hope and John Inglis: J.C. Watt, *John Inglis, Lord Justice-General of Scotland: A Memoir* (Edinburgh, 1893), 108.

<sup>119</sup> *H.M.A. v Madeleine Smith*, 1857, 2 Irv. 641; Inglis' address to the jury may be found in F.T. Jesse, ed., *Trial of Madeleine Smith* (London, 1927), 233-274.

<sup>120</sup> His son, Archibald, however, admitted to the bar in 1843, was treasurer of the Faculty from 1853-62: F. Grant, *The Faculty of Advocates in Scotland 1532-1943* (Edinburgh, 1944), 19.

<sup>121</sup> E.g., Adv. Lib., Faculty Minute Books, FR 4, fos 67 (13 Jan. 1801), 182 (7 Feb. 1807).

<sup>122</sup> Watt, *John Inglis*, 8.

## Appendix

David Boyle: Summary of income from his fee book, 1801-1810

### Court of Session Business

Session		Annual total <sup>123</sup>
Summer session [S.S.] 1801 (15 May-26 Aug.)	£87-3	-
Winter Session [W.S.] 1801-2 (13 Nov. - 11 May 1802)	£140-11	
S.S. 1802 (17 May-30 Jul.)	£158-9	£299
W.S. 1802-3 (13 Nov. 1802-1 Feb. 1803)*	£70-7	
S.S. 1803 (14 May-26 Oct.)	£75-12	£145-19*
W.S. 1803-4 (14 Nov. 1803-3 May 1804)	£424-4	
S.S. 1804 (11 May-31 Aug.)	£135-9	£559-13
W.S. 1804-5 (12 Nov. 1804-9 May 1805)	£518-4	
S.S. 1805 (17 May-17 Oct.)	£198-7	£716-11
W.S. 1805-6 (11 Nov. 1805-11 May 1806)	£415-16	
S.S. 1806 (20 May-9 Nov.)	£248-6	£664-2
W.S. 1806-7 (12 Nov. 1806-20 Feb. 1807)*	£528-16	
S.S. 1807 (12 May-7 Nov.)*	£226-16	£755-12*
W.S. 1807-8 (12 Nov. 1807-25 Feb. 1808)	£436-4-6	
S.S. 1808 (6 Jul.-8 Nov.)*	£110-5	£546-9-6*
W.S. 1808-9 (14 Nov. 1808-9 Mar. 1809)	£534-11	
S.S. 1809 (24 May-3 Nov)*	£233	£767-11*
W.S. 1809-10 (13 Nov.-17 Jan. 1810)*	£155-8	
S.S. 1810 (8 May-7 Nov)*	£216-1	£371-9*
W.S. 1810-11 (21 Nov. 1810-20 Dec. 1811)	£269-17	-

Total: £4826 6s 6d

\* Excludes London income.

### *Income from London business*

Period	
1803 (1 Feb.-27 May) <sup>124</sup>	£415-2
1807 (27 Feb.-26 Aug.) <sup>125</sup>	£511-9
1808 (14 Mar.-24 Jun.) <sup>126</sup>	£674-17

<sup>123</sup> Totals are based on the year running from the opening of the court in November. Boyle ended his own yearly accounts at the end of March (see entry dated 29 Mar. 1808).

<sup>124</sup> Includes £150 for 'going to London on Captain Cochrane's Election' and £200 'Additional fee for attending Dunfermline Committee', both paid by Robert Dundas W.S. An entry has been struck out and is unreadable. The Cochrane fee appears to be accounted for in Session business but is clearly related to London.

<sup>125</sup> As mentioned in the text, this includes £130 'fees on Wick com[mi]t[t]e[e] including consultations'.

<sup>126</sup> Includes £210 fee for going to London on Sir John Sinclair's petition and £262-12 for doing so 'on Renfrew petition'.

1809 (20 Mar.-28 Apr.)	£98-14
1810 (15 Feb.-13 Apr.)	£241-12

Total: £1941 14s

### *Justiciary Business*

		Subtotals
Southern Circuit Spring 1802	£14-14	
Travelling allowance	£50	
Justiciary appeals	£7-7	
Exchequer payment, 23 Jul. 1802 <sup>127</sup>	£50	
Justiciary Court (10 Jun.-9 Aug)	£11-11	
Southern circuit appeals <sup>128</sup>	£7-7	
Southern Circuit total <sup>129</sup> (Mar.-Aug. 1802)		£140-19
North Circuit <sup>130</sup> , Autumn (Aug/Sept) 1802	£108-16	
Exchequer payment, 28 Jan. 1803	£50	
Justiciary Court	£7-7	
Northern circuit total	£166-3	£140-19
Annual total 1802-3		£307-2
Western Circuit (Apr. 1803) – did not attend	-	
Exchequer payment, 30 Jul. 1803	£50	
Justiciary Court	£8-8	
Autumn Circuit West (Sep. 1803) <sup>131</sup>	£66-16	
Glasgow appeals	£6-6	
Exchequer payment, 27 Jan. 1804	£50	
Autumn total		£123-2
Justiciary Court (Nov. 1803-Jan. 1804)	£10-10	
Spring circuit 1804 – did not go	-	
Exchequer payment. 26 Jul. 1804	£50	
Justiciary Court (Jun./Jul.)	£6-6	
Western Circuit (Sep. 1804)	£75-4 <sup>132</sup>	
Appeals	£19-9	
Western Circuit total	£95-3	£95-3
Exchequer payment, 25 Jan. 1805	£50	
Autumn total		£145-3
Justiciary court (Nov. 1804-Jul. 1805)	£19-19	
Western Circuit (Apr.-Jun. 1805)	£121-8	
Exchequer payment, 23 Jul. 1805	£50	
Southern Circuit, Autumn 1805	£66-16	
Justiciary Court (Dec.1805-Jan. 1806)	£66-16	

<sup>127</sup> This covered charges and expenses.

<sup>128</sup> These seem to have been added twice, but it is unclear whether these are the same as the appeals noted earlier.

<sup>129</sup> This covered Jedburgh, Dumfries, and Ayr.

<sup>130</sup> This covered Perth, Aberdeen, and Inverness.

<sup>131</sup> This covered Stirling, Inveraray and Glasgow.

<sup>132</sup> Included £50 'extra allowance by standing order of Lord Advocate'.

Total for criminal work: £952 8s

*Exchequer and Revenue Business, &c.*

The income from this business is not sub-totalled by term. In the fee book the first total runs from 2 Dec. 1808 to 13 Jul. 1809, when it was £536 5s. This includes exchequer fees, which are set out below, of £101 7s and £78 15s and fees for business as Exchequer counsel, net of these, were therefore £356 3s. The total for the period 17 Jul. 1809 to 28 Oct. 1809 was £107 2s (no Exchequer fees were paid in this period). Fees then run on from 21 Nov. 1809 to 17 Jan. 1810 without being totalled. The sums amount to £170 1s (not including exchequer fees, covering two terms, respectively £85 1s and £45 3 s).

The next folio covers the period 4 May 1810 to 4 July, with the total £298 4s which is carried forward to the next folio which ends on 20 Dec. 1810 with a grand total of £493 10s (net of Exchequer fees from the solicitor of excise, itemised below, the figure is £340 2s).

*Fees in Exchequer* (MS Murray 406)<sup>133</sup>

6 Jan. 1809: 'Martinmas Term For Excise Business this term from Receipt 6 Jan. 1809 ... by Mr Jackson Sol[icito]r of Excise ... £101 7s.'

13 Jul. 1809: 'Fees in Lammas Term, Excise ... W[illia]m Jackson sol[icito]r ... £78 15s.'

End of Year (on or after 17 Jan. 1810): Fees in Martimas Term, Exchequer ... W[illia]m Jackson Sol[icito]r of Excise ... £85 1s.'

12 May 1810: 'Candlemas Term fees ... [William Jackson Solicitor of Excise] £45 3s.'

2 Jul. 1810: 'Lammas Term Fees ... W[ilia]m Jackson Sol[icito]r ... £71 8s.'

(On or after 20 Dec. 1810): 'Martinmas Ex[che]q[ue]r Term Excise Fees ... W[illia]m Jackson Sol[icito]r ... £81 18s.'

*Salary as solicitor general*

13 Aug. 1807	£94-10-9¾	Two months' salary from 5 May to 5 July <sup>134</sup>
9 Nov. 1807	£138-3	Salary due Oct. 5
Jan. 1808	£138-3	Salary due 5 Jan.
Jul. 1808	£87	Salary due 5 April
Jul. 1808	£138-3	Salary due 5 Jul.
Nov. 1808	£138-3	Salary due 10 Nov.
3 Feb. 1809	£138-3	Salary due 5 Jan.
April	£83	Salary due 5 April
28 Jul.	£138-3	Salary due 5 Jul.
14 Nov.	£138-3	Salary due 10 Oct.
Feb. 1810	£138-8	Salary due 5 Jan. 1810
5 May 1810	£90-2	Salary due 5 Apr.
25 Jul.	£135-4-2	Salary due 5 Jul.

<sup>133</sup> The traditional terms in the Court of Exchequer in Scotland were: Martinmas (3 Nov. to 29 Nov.); Candlemas (23 Jan. to 12 Feb.); Whitsuntide (25 May to 15 Jun.); and Lammas (12 Jul. to 8 Aug.): Sir John Clerk and Baron Scrope, *Historical View of the Forms and Power of the Court of Exchequer in Scotland* (Edinburgh: J. Hay & Co., Edinburgh, 1820), 139.

<sup>134</sup> This was paid 'deducting 6d per Pound £2-11 - ½ & 1sh per d £5.2.1½'. Otherwise, the salary was paid quarterly.

9 Nov.	£150	Salary due 5 Oct. <sup>135</sup>
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Tot: £1745 3¾

[Late payments – listed on penultimate folio]

30 Mar. 1812

Exchequer suit Dec. 20<sup>th</sup> 1810 Advocate v Shivas Aberdeen [paid by] J[ame]s Bremner  
Sol[icitor] Stamp Office, £3 3

[Another five cases appear under the same date]

18 Feb. 1813

Rec[eive]d from Messrs Morrison & Bremner fee as arbiter, in York B[uilding]s Co[mpany]  
case in 1809, J[ame]s Bremner, £26 5

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<sup>135</sup> Includes 7s for 'transumpt & stamp'.